



Senate

General Assembly

January Session, 2009

File No. 660

Senate Bill No. 1152

Senate, April 15, 2009

The Committee on Government Administration and Elections reported through SEN. SLOSSBERG of the 14th Dist., Chairperson of the Committee on the part of the Senate, that the bill ought to pass.

***AN ACT CONCERNING THE DISCLOSURE OF CERTAIN REPORTS
AND THE DEFINITION OF INVASION OF PERSONAL PRIVACY
UNDER THE FREEDOM OF INFORMATION ACT.***

Be it enacted by the Senate and House of Representatives in General Assembly convened:

1 Section 1. Subsection (e) of section 1-210 of the general statutes is
2 repealed and the following is substituted in lieu thereof (*Effective from*
3 *passage*):

4 (e) Notwithstanding the provisions of subdivisions (1) and (16) of
5 subsection (b) of this section, disclosure shall be required of:

6 (1) Interagency or intra-agency memoranda or letters, advisory
7 opinions, recommendations or any report comprising part of the
8 process by which governmental decisions and policies are formulated,
9 except disclosure shall not be required of a preliminary draft of a
10 memorandum, prepared by a member of the staff of a public agency,
11 which is subject to revision prior to submission to or discussion among

12 the members of such agency;

13 (2) All records of investigation conducted with respect to any
14 tenement house, lodging house or boarding house as defined in section
15 19a-355, or any nursing home, residential care home or rest home, as
16 defined in section 19a-490, by any municipal building department or
17 housing code inspection department, any local or district health
18 department, or any other department charged with the enforcement of
19 ordinances or laws regulating the erection, construction, alteration,
20 maintenance, sanitation, ventilation or occupancy of such buildings;
21 [and]

22 (3) The names of firms obtaining bid documents from any state
23 agency; and

24 (4) The report of findings and recommendations made by the
25 Auditors of Public Accounts to the Attorney General pursuant to
26 section 4-61dd, as amended by this act, provided such disclosure is
27 made: (A) Only to the person who transmitted facts to the Auditors of
28 Public Accounts pursuant to section 4-61dd, as amended by this act,
29 and (B) after such report is transmitted to the Attorney General.

30 Sec. 2. Subsection (a) of section 4-61dd of the general statutes is
31 repealed and the following is substituted in lieu thereof (*Effective from*
32 *passage*):

33 (a) Any person having knowledge of any matter involving
34 corruption, unethical practices, violation of state laws or regulations,
35 mismanagement, gross waste of funds, abuse of authority or danger to
36 the public safety occurring in any state department or agency or any
37 quasi-public agency, as defined in section 1-120, or any person having
38 knowledge of any matter involving corruption, violation of state or
39 federal laws or regulations, gross waste of funds, abuse of authority or
40 danger to the public safety occurring in any large state contract, may
41 transmit all facts and information in such person's possession
42 concerning such matter to the Auditors of Public Accounts. The
43 Auditors of Public Accounts shall review such matter and report their

44 findings and any recommendations to the Attorney General. Upon
45 receiving such a report, the Attorney General shall make such
46 investigation as the Attorney General deems proper regarding such
47 report and any other information that may be reasonably derived from
48 such report. Prior to conducting an investigation of any information
49 that may be reasonably derived from such report, the Attorney
50 General shall consult with the Auditors of Public Accounts concerning
51 the relationship of such additional information to the report that has
52 been issued pursuant to this subsection. Any such subsequent
53 investigation deemed appropriate by the Attorney General shall only
54 be conducted with the concurrence and assistance of the Auditors of
55 Public Accounts. At the request of the Attorney General or on their
56 own initiative, the auditors shall assist in the investigation. The
57 Attorney General shall have power to summon witnesses, require the
58 production of any necessary books, papers or other documents and
59 administer oaths to witnesses, where necessary, for the purpose of an
60 investigation pursuant to this section. Upon the conclusion of the
61 investigation, the Attorney General shall where necessary, report any
62 findings to the Governor, or in matters involving criminal activity, to
63 the Chief State's Attorney. In addition to the exempt records provision
64 of section 1-210, as amended by this act, the Auditors of Public
65 Accounts and the Attorney General shall not, after receipt of any
66 information from a person under the provisions of this section,
67 disclose the identity of such person without such person's consent
68 unless the Auditors of Public Accounts or the Attorney General
69 determines that such disclosure is unavoidable, and may withhold
70 records of such investigation, during the pendency of the
71 investigation. Nothing in this subsection shall be construed to prohibit
72 the disclosure of the Auditors of Public Accounts' report of findings
73 and recommendations to the Attorney General provided such
74 disclosure is made: (1) Only to the person who transmitted facts to the
75 Auditors of Public Accounts pursuant to this section, and (2) after such
76 report is transmitted to the Attorney General.

77 Sec. 3. Section 1-200 of the general statutes is amended by adding
78 subdivision (12) as follows (*Effective from passage*):

79 (NEW) (12) "Invasion of personal privacy" means the public
80 disclosure of any matter that (A) would be highly offensive to a
81 reasonable person, and (B) is not of legitimate concern to the public.

This act shall take effect as follows and shall amend the following sections:		
Section 1	<i>from passage</i>	1-210(e)
Sec. 2	<i>from passage</i>	4-61dd(a)
Sec. 3	<i>from passage</i>	1-200

GAE *Joint Favorable*

The following fiscal impact statement and bill analysis are prepared for the benefit of members of the General Assembly, solely for the purpose of information, summarization, and explanation, and do not represent the intent of the General Assembly or either House thereof for any purpose:

OFA Fiscal Note

State Impact: None

Municipal Impact: None

Explanation

The bill, which allows the state auditors to disclose their whistleblower investigation findings to the whistleblower after the information has been reported to the attorney general, will not result in a fiscal impact.

OLR Bill Analysis**SB 1152*****AN ACT CONCERNING THE DISCLOSURE OF CERTAIN REPORTS AND THE DEFINITION OF INVASION OF PERSONAL PRIVACY UNDER THE FREEDOM OF INFORMATION ACT.*****SUMMARY:**

This bill codifies the test established in *Perkins v. FOI*, 228 Conn. 158 (1993), for determining whether personnel, medical, or similar files are private and exempt from disclosure under the Freedom of Information Act (FOIA). This means that personnel, medical, or similar files are exempt if disclosure (1) would be highly offensive to a reasonable person and (2) the records are not of legitimate public concern.

It allows the state auditors to disclose their findings and recommendations after a whistleblower investigation to the whistleblower, but only after the information is communicated to the attorney general.

EFFECTIVE DATE: Upon passage

WHISTLEBLOWER INFORMATION

By law, the state auditors receive and review whistleblower complaints. They report their findings and recommendations to the attorney general for an investigation. If the attorney general bases the need for an investigation on the auditors' report, he must allow them to participate in the investigation. Records of the investigation may be withheld from disclosure while it is ongoing.

The bill limits the disclosure of the auditors' report to the whistleblower and only after the auditors have transmitted it to the attorney general under FOIA. It provides that no one should construe the whistleblower law to reach a different conclusion.

COMMITTEE ACTION

Government Administration and Elections Committee

Joint Favorable

Yea 14 Nay 0 (03/27/2009)